

LEGISLATIVE BILL 1047

Approved by the Governor April 12, 2010

Introduced by Wightman, 36.

FOR AN ACT relating to wills and trusts; to provide for construction of certain terms relating to federal estate and generation-skipping transfer taxes; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) A will or trust of a decedent who dies after December 31, 2009, and before January 1, 2011, that contains a formula referring to the "unified credit", "estate tax exemption", "applicable exemption amount", "applicable credit amount", "applicable exclusion amount", "generation-skipping transfer tax exemption", "GST exemption", "marital deduction", "maximum marital deduction", or "unlimited marital deduction", or that measures a share of an estate or trust based on the amount that can pass free of federal estate tax or the amount that can pass free of federal generation-skipping transfer tax, or that is otherwise based on a similar provision of federal estate or generation-skipping transfer tax law, shall be deemed to refer to the federal estate and generation-skipping transfer tax laws as they applied with respect to estates of decedents dying on December 31, 2009.

(2) This section does not apply:

(a) If the decedent dies on a date on which there is a then-applicable federal estate or generation-skipping transfer tax; or

(b) With respect to a will or trust that is executed or amended after December 31, 2009, or that manifests an intent that a contrary rule apply if the decedent dies on a date on which there is no then-applicable federal estate or generation-skipping transfer tax.

(3) The personal representative or any affected beneficiary under the will or trust may bring a proceeding to determine whether the decedent intended that the references under subsection (1) of this section be construed with respect to the law as it existed after December 31, 2009. Such a proceeding shall be commenced within twelve months after the death of the decedent.

Sec. 2. Since an emergency exists, this act takes effect when passed and approved according to law.